

(PCT Article 36 and Rule 70)

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/011146

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-27 as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-46 received by this Authority on 30.08.2005 with letter of 24.08.2005
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/7-7/7 as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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**Box No. III** Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application
- ☒ claims Nos. 5, 13, 14, 33-37, 40, 46

because:

- ☐ the said international application, or the said claims Nos. \_\_\_\_\_  
relate to the following subject matter which does not require an international preliminary examination (*specify*):

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_  
are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported  
by the description that no meaningful opinion could be formed.

- ☒ no international search report has been established for said claims Nos. 5, 13, 14, 33-37, 40, 46

- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

- |                            |  |
|----------------------------|--|
| the written form           | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

- ☐ See Supplemental Box for further details.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	7, 8, 11, 12, 19-28, 30-32, 43-45	YES
	Claims	1-4, 6, 9, 10, 16-18, 29, 38, 39, 41, 42, 42	NO
Inventive step (IS)	Claims	7, 8, 11, 12, 19-28, 30-32, 43-45	YES
	Claims	1-4, 6, 9, 10, 16-18, 29, 38, 39, 41, 42	NO
Industrial applicability (IA)	Claims	1-4, 6-12, 15-32, 38, 39, 41-45	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
<p>This report makes reference to the following documents:</p> <p>D2: GB 783 881 A (VICKERS ELECTRICAL CO LTD) 2 October 1957 (1957-10-02)</p> <p>D9: PATENT ABSTRACTS OF JAPAN vol. 003, no. 158 (M-086), 25 December 1979 (1979-12-25) &amp; JP 54 135963 A (FUJI ELECTRIC CO LTD), 22 October 1979 (1979-10-22)</p> <p>The present application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 (device) and claim 38 (method) is not novel within the meaning of PCT Article 33(2).</p> <p>a) D2 is considered to be the prior art closest to the subject matter of claim 1. D2 discloses (see, in particular, abstract and figure 2):</p> <p>a device for guiding at least two flow media having different pressures, said device comprising a shaft (1) and a surrounding, pressure-insulating housing (2, 7); between the shaft and the pressure-insulating housing, chambers situated</p>			

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>next to each other in the axial direction and defined by sealing elements (14, 15), all sealing elements being leakage free; and two chambers for fluids of different pressures (4, 5) which border a chamber for an auxiliary fluid; the chamber for the auxiliary fluid being divided into two or more subchambers for two or more different pressure ranges by a device (see figure 5 and page 2, lines 71-82); and means for generating a pressure difference between the subchambers (page 2, lines 43-48, 82-85 and claim 3); the means being a conveyor device (page 2, lines 56-60).</p> <p>It is clear from the feature of claim 3 in D2 that the subregion for the higher auxiliary fluid pressure is allocated to the chamber for the fluid of higher pressure. The subject matter of claim 38 is therefore also known from D2.</p> <p>b) D9 also discloses (see, in particular, abstract and figure 2):</p> <p>a device for guiding at least two flow media having different pressures, said device comprising a shaft (12) and a surrounding, pressure-insulating housing (11); between the shaft and the pressure-insulating housing, chambers situated next to each other in the axial direction and defined by sealing elements (14), all sealing elements being leakage free; and two chambers for fluids of different pressures (O, P) which border a chamber for an auxiliary fluid; the chamber for</p>

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	<p>the auxiliary fluid being divided into two subchambers (C, B; B, A) for two different pressure ranges by a device (13); and means (16) for generating a pressure difference between the subchambers; the means being a conveyor device (16, see also figure 3).</p> <p>Since, also in D9, the subregion for the higher auxiliary fluid (A) pressure is allocated to the chamber for the fluid of higher pressure, the corresponding method of claim 38 is also known from D9.</p> <p>The additional features of claims 2 to 4, 6, 9, 10, 16 to 18, 29, 39, 41 and 42 are also known from or suggested by D2 (PCT Article 33(2)).</p> <p>The additional features of claims 2, 3, 6, 39 and 41 are known from or suggested by D9 (PCT Article 33(2)).</p> <p>The combination of features in dependent claims 7, 8, 11, 19, 24, and 43 to 45 and the corresponding dependent claims is neither known nor obvious from the available prior art.</p>

**Box No. VIII** Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 15 is not supported by the description (PCT Article 6) because the scope of this claim goes beyond the scope justified by the description and the drawings: according to the description, page 6, last paragraph and page 27, second paragraph, the flexible membrane is disclosed only in combination with the subject matter claimed in claim 10. The claim's reference back therefore leads to a lack of clarity and this claim fails to meet the requirements of PCT Rule 6(4).

In general, the requirements of PCT Rule 6(4) are not always met by the large number of dependent claims and references back.

Contrary to PCT Rule 5.1(a)(ii), the description does not cite D2 and D9 or indicate the relevant prior art disclosed therein.

The description (in particular, page 4, first paragraph) is not in line with the claims (PCT Rule 5.1(a)(iii)).